

**ASSEMBLY BILL**

**No. 2205**

**Introduced by Assembly Member Koretz**

February 20, 2002

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An act to amend, repeal, and add Section 30474 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2205, as introduced, Koretz. Tobacco products: prevention of sales of untaxed cigarettes: multiagency task force.

The existing Cigarette and Tobacco Products Tax Law imposes a specified tax on the distribution of cigarettes. Existing law also imposes a penalty of \$100 for each carton of 200 cigarettes, or portion thereof, upon any person who knowingly possesses, keeps, stores, or retains for the purpose of sale, or sells, or offers to sell, any package of cigarettes to which there is not affixed a stamp or meter impression. Existing law requires, with regard to the \$100 penalty for the distribution of a carton of black market cigarettes, that the court transmit 50% of the penalty assessed to the local prosecuting jurisdiction and 50% of the penalty assessed to the State Board of Equalization for transmittal to the Treasurer for deposit in the General Fund.

This bill would, for the period beginning on January 1, 2003, and ending on January 1, 2006, increase the penalty for the distribution of black market cigarettes to \$200 per carton, and would provide for the additional \$100 penalty to be deposited in the Unlawful Sales Reduction Fund, which the bill would create, for appropriation by the Legislature to the State Board of Equalization to be allocated for the funding of a competitive grant program, to be established by the Legislature, to enable grantee cities to establish a multiagency task

force for the purpose of significantly reducing the sales of black market cigarettes and creating a deterrent to those sales, through the focused investigation and prosecution of sales of black market cigarettes and other associated offenses and crimes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 30474 of the Revenue and Taxation  
2 Code is amended to read:

3 30474. (a) *This section shall be known as and may be cited*  
4 *as the Black Market Cigarette and Street Corruption Prevention*  
5 *Act.*

6 (b) *The Legislature finds that the sale of black market, untaxed*  
7 *cigarettes has resulted in the loss to the state of hundreds of*  
8 *thousands of dollars in revenue to the state, robbing state*  
9 *healthcare and programs designed to help children.*

10 (c) *It is the intent of the Legislature, by enacting the act adding*  
11 *this subdivision, to provide resources to prosecutors and local law*  
12 *enforcement personnel, and to enable cities to develop a*  
13 *multiagency task force, for the purpose of significantly reducing*  
14 *the sales of black market cigarettes and creating a deterrent to*  
15 *those sales through the focused investigation and prosecution of*  
16 *sales of black market cigarettes, and other associated offenses and*  
17 *related crimes.*

18 (d) Any person who knowingly possesses, or keeps, stores, or  
19 retains for the purpose of sale, or sells or offers to sell, any package  
20 of cigarettes to which there is not affixed the stamp or meter  
21 impression required to be affixed under this part, when those  
22 cigarettes have been obtained from any source whatever, is guilty  
23 of a misdemeanor and shall for each offense be fined not more than  
24 one thousand dollars (\$1,000), or be imprisoned for not exceeding  
25 one year in a county jail, or be subject to both fine and  
26 imprisonment, in the discretion of the court. In addition to the fine  
27 or sentence, or both, each person convicted under this section shall  
28 pay ~~one~~ two hundred dollars ~~(\$100)~~ (\$200) for each carton of 200  
29 cigarettes, or portion thereof, knowingly possessed, or kept,  
30 stored, or retained for the purpose of sale, or sold or offered for sale  
31 in violation of this section, as determined by the court. The court



1 shall direct that 50 percent of the *first one hundred dollars*  
2 *(\$100.00) of the penalty assessed be transmitted to the local*  
3 *prosecuting jurisdiction, to be allocated for costs of prosecution,*  
4 *and 50 percent of the penalty assessed be transmitted to the State*  
5 *Board of Equalization. The court shall direct that the second one*  
6 *hundred dollars (\$100) of the penalty assessed shall be transmitted*  
7 *to the Controller for deposit in the Unlawful Sales Reduction*  
8 *Fund, which is hereby created. Upon appropriation by the*  
9 *Legislature, the moneys in the fund shall be allocated to the State*  
10 *Board of Equalization for the funding of a competitive grant*  
11 *program to be established by the Legislature to enable grantee*  
12 *cities to establish a multiagency task force, the composition of*  
13 *which shall include prosecutors and local law enforcement*  
14 *personnel, for the purpose of significantly reducing the sales of*  
15 *black market cigarettes, and creating a deterrent to those sales*  
16 *through the focused investigation and prosecution of sales of black*  
17 *market cigarettes and other associated offenses and related*  
18 *crimes. No more than 5 percent of the amount transmitted from the*  
19 *second one hundred dollars (\$100) of the penalty assessed may be*  
20 *retained by the board to fund the board's costs of administering the*  
21 *competitive grant program.*

22 *(e) This section shall be operative for the period beginning on*  
23 *January 1, 2003, and ending on January 1, 2006, and as of that*  
24 *date this section shall be repealed unless a later enacted statute*  
25 *extends the operation of this section.*

26 SEC. 2. Section 30474 of the Revenue and Taxation Code is  
27 amended to read:

28 30474. (a) Any person who knowingly possesses, or keeps,  
29 stores, or retains for the purpose of sale, or sells or offers to sell,  
30 any package of cigarettes to which there is not affixed the stamp  
31 or meter impression required to be affixed under this part, when  
32 those cigarettes have been obtained from any source whatever, is  
33 guilty of a misdemeanor and shall for each offense be fined not  
34 more than one thousand dollars (\$1,000), or be imprisoned for not  
35 exceeding one year in a county jail, or be subject to both fine and  
36 imprisonment, in the discretion of the court. In addition to the fine  
37 or sentence, or both, each person convicted under this section shall  
38 pay one hundred dollars (\$100) for each carton of 200 cigarettes,  
39 or portion thereof, knowingly possessed, or kept, stored, or  
40 retained for the purpose of sale, or sold or offered for sale in

1 violation of this section, as determined by the court. The court shall  
2 direct that 50 percent of the penalty assessed be transmitted to the  
3 local prosecuting jurisdiction, to be allocated for costs of  
4 prosecution, and 50 percent of the penalty assessed be transmitted  
5 to the State Board of Equalization.

6 (b) *This section shall become operative on January 1, 2006.*

